

AN ACT

relating to changing the eligibility of persons charged with certain offenses to receive community supervision, including deferred adjudication community supervision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42A.054, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Article 42A.053 does not apply to a defendant adjudged guilty of an offense under:

(1) Section 15.03, Penal Code, if the offense is punishable as a felony of the first degree;

(2) Section 19.02, Penal Code (Murder);

(3) Section 19.03, Penal Code (Capital Murder);

(4) Section 20.04, Penal Code (Aggravated Kidnapping);

(5) Section 20A.02, Penal Code (Trafficking of Persons);

(6) Section 20A.03, Penal Code (Continuous Trafficking of Persons);

(7) Section 21.11 [~~21.11(a)(1)~~], Penal Code (Indecency with a Child);

(8) [~~(7)~~] Section 22.011, Penal Code (Sexual Assault);

1           (9) [~~(8)~~] Section 22.021, Penal Code (Aggravated  
2 Sexual Assault);

3           (10) [~~(9)~~] Section 22.04(a)(1), Penal Code (Injury to  
4 a Child, Elderly Individual, or Disabled Individual), if:

5                   (A) the offense is punishable as a felony of the  
6 first degree; and

7                   (B) the victim of the offense is a child;

8           (11) [~~(10)~~] Section 29.03, Penal Code (Aggravated  
9 Robbery);

10          (12) [~~(11)~~] Section 30.02, Penal Code (Burglary), if:

11                   (A) the offense is punishable under Subsection  
12 (d) of that section; and

13                   (B) the actor committed the offense with the  
14 intent to commit a felony under Section 21.02, 21.11, 22.011,  
15 22.021, or 25.02, Penal Code;

16          (13) Section 43.04, Penal Code (Aggravated Promotion  
17 of Prostitution);

18          (14) [~~(12)~~] Section 43.05, Penal Code (Compelling  
19 Prostitution);

20          (15) [~~(13)~~] Section 43.25, Penal Code (Sexual  
21 Performance by a Child); or

22          (16) [~~(14)~~] Chapter 481, Health and Safety Code, for  
23 which punishment is increased under:

24                   (A) Section 481.140 of that code (Use of Child in  
25 Commission of Offense); or

26                   (B) Section 481.134(c), (d), (e), or (f) of that  
27 code (Drug-free Zones) if it is shown that the defendant has been

1 previously convicted of an offense for which punishment was  
2 increased under any of those subsections.

3 (e) Notwithstanding Subsection (a), with respect to an  
4 offense committed by a defendant under Section 43.04 or 43.05,  
5 Penal Code, a judge may place the defendant on community  
6 supervision as permitted by Article 42A.053 if the judge makes a  
7 finding that the defendant committed the offense solely as a victim  
8 of an offense under Section 20A.02, 20A.03, 43.03, 43.04, or 43.05,  
9 Penal Code.

10 SECTION 2. Article 42A.056, Code of Criminal Procedure, is  
11 amended to read as follows:

12 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY  
13 SUPERVISION. A defendant is not eligible for community supervision  
14 under Article 42A.055 if the defendant:

15 (1) is sentenced to a term of imprisonment that  
16 exceeds 10 years;

17 (2) is convicted of a state jail felony for which  
18 suspension of the imposition of the sentence occurs automatically  
19 under Article 42A.551;

20 (3) is adjudged guilty of an offense under Section  
21 19.02, Penal Code;

22 (4) is convicted of an offense under Section 21.11  
23 [~~21.11(a)(1)~~], 22.011, or 22.021, Penal Code, if the victim of the  
24 offense was younger than 14 years of age at the time the offense was  
25 committed;

26 (5) is convicted of an offense under Section 20.04,  
27 Penal Code, if:

1 (A) the victim of the offense was younger than 14  
2 years of age at the time the offense was committed; and

3 (B) the actor committed the offense with the  
4 intent to violate or abuse the victim sexually;

5 (6) is convicted of an offense under Section [20A.02](#),  
6 [20A.03](#), [43.04](#), [43.05](#), or [43.25](#), Penal Code; or

7 (7) is convicted of an offense for which punishment is  
8 increased under Section [481.134](#)(c), (d), (e), or (f), Health and  
9 Safety Code, if it is shown that the defendant has been previously  
10 convicted of an offense for which punishment was increased under  
11 any of those subsections.

12 SECTION 3. Article [42A.102](#), Code of Criminal Procedure, is  
13 amended to read as follows:

14 Art. 42A.102. ELIGIBILITY FOR DEFERRED ADJUDICATION  
15 COMMUNITY SUPERVISION. (a) Subject to Subsection (b), a [A] judge  
16 may place on deferred adjudication community supervision a  
17 defendant charged with an offense under Section [21.11](#), [22.011](#), or  
18 [22.021](#), Penal Code, regardless of the age of the victim, or a  
19 defendant charged with a felony described by Article [42A.453](#)(b)  
20 only if the judge makes a finding in open court that placing the  
21 defendant on deferred adjudication community supervision is in the  
22 best interest of the victim. The failure of the judge to make a  
23 finding under this subsection is not grounds for the defendant to  
24 set aside the plea, deferred adjudication, or any subsequent  
25 conviction or sentence.

26 (b) In all other cases, the judge may grant deferred  
27 adjudication community supervision unless:

1 (1) the defendant is charged with an offense:

2 (A) under Section 20A.02 or 20A.03 or Sections  
3 49.04-49.08, Penal Code; or

4 (B) for which punishment may be increased under  
5 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it  
6 is shown that the defendant has been previously convicted of an  
7 offense for which punishment was increased under any one of those  
8 subsections;

9 (2) the defendant:

10 (A) is charged with an offense under Section  
11 21.11, 22.011, ~~[or]~~ 22.021, 43.04, or 43.05, Penal Code, regardless  
12 of the age of the victim, or a felony described by Article  
13 42A.453(b), other than a felony described by Subdivision (1)(A) or  
14 (3)(B) of this subsection; and

15 (B) has previously been placed on community  
16 supervision for an offense under Paragraph (A);

17 (3) the defendant is charged with an offense under:

18 (A) Section 21.02, Penal Code; or

19 (B) Section 22.021, Penal Code, that is  
20 punishable under Subsection (f) of that section or under Section  
21 12.42(c)(3) or (4), Penal Code; or

22 (4) the defendant is charged with an offense under  
23 Section 19.02, Penal Code, except that the judge may grant deferred  
24 adjudication community supervision on determining that the  
25 defendant did not cause the death of the deceased, did not intend to  
26 kill the deceased or another, and did not anticipate that a human  
27 life would be taken.

1 SECTION 4. Section 773.0614(c), Health and Safety Code, is  
2 amended to read as follows:

3 (c) A certificate holder's certificate shall be revoked if  
4 the certificate holder has been convicted of or placed on deferred  
5 adjudication community supervision or deferred disposition for:

6 (1) an offense listed in Article 42A.054(a)(2), (3),  
7 (4), [~~(6)~~] (7), (8), (9), (11) [~~(10)~~], or (16) [~~(14)~~], Code of  
8 Criminal Procedure; or

9 (2) an offense, other than an offense described by  
10 Subdivision (1), committed on or after September 1, 2009, for which  
11 the person is subject to registration under Chapter 62, Code of  
12 Criminal Procedure.

13 SECTION 5. Section 773.06141(a), Health and Safety Code, is  
14 amended to read as follows:

15 (a) The department may suspend, revoke, or deny an emergency  
16 medical services provider license on the grounds that the  
17 provider's administrator of record, employee, or other  
18 representative:

19 (1) has been convicted of, or placed on deferred  
20 adjudication community supervision or deferred disposition for, an  
21 offense that directly relates to the duties and responsibilities of  
22 the administrator, employee, or representative, other than an  
23 offense for which points are assigned under Section 708.052,  
24 Transportation Code;

25 (2) has been convicted of or placed on deferred  
26 adjudication community supervision or deferred disposition for an  
27 offense, including:

1                   (A) an offense listed in Article 42A.054(a)(2),  
2 (3), (4), [~~(6)~~] (7), (8), (9), (11) [~~(10)~~], or (16) [~~(14)~~], Code of  
3 Criminal Procedure; or

4                   (B) an offense, other than an offense described  
5 by Subdivision (1), for which the person is subject to registration  
6 under Chapter 62, Code of Criminal Procedure; or

7                   (3) has been convicted of Medicare or Medicaid fraud,  
8 has been excluded from participation in the state Medicaid program,  
9 or has a hold on payment for reimbursement under the state Medicaid  
10 program under Subchapter C, Chapter 531, Government Code.

11           SECTION 6. The changes in law made by this Act apply only to  
12 an offense committed on or after the effective date of this Act. An  
13 offense committed before the effective date of this Act is governed  
14 by the law in effect on the date the offense was committed, and the  
15 former law is continued in effect for that purpose. For purposes of  
16 this section, an offense was committed before the effective date of  
17 this Act if any element of the offense occurred before that date.

18           SECTION 7. The Texas Department of Criminal Justice is  
19 required to implement a provision of this Act only if the  
20 legislature appropriates money specifically for that purpose. If  
21 the legislature does not appropriate money specifically for that  
22 purpose, the department may, but is not required to, implement a  
23 provision of this Act using other appropriations available for that  
24 purpose.

25           SECTION 8. This Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2758 was passed by the House on April 24, 2019, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2758 on May 23, 2019, by the following vote: Yeas 140, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2758 was passed by the Senate, with amendments, on May 21, 2019, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor